

CAVEAT VENDITOR.

Three hundred years ago, when the well-known case of *Chandelor v. Lopus* (1603), 7 Croke Jac., p. 4, was decided, the sale of property, both real and personal, accentuated in a marked manner the difference between the civil law and the common law of England. In the case of the former the cautionary "beware" applied to the vendor; while in the latter the purchaser was thrown upon his guard by the monitory caveat emptor. In Coke upon Littleton, the following distinction was drawn:—"By the civil law every man is bound to warrant the thing that he selleth or conveyeth, albeit there be no express warranty; but the common law bindeth him not, unless there be a warranty either indeed or in law; for caveat emptor." Many important exceptions, favouring the civil law rule, have gradually tended to modify the common law maxim. Chancellor Kent is reported to have said with reference to the rule of caveat emptor:—"If the question was *res integra* in our law, I confess I should be overcome by the reasoning of the civilians."

An eminent English Judge has said of the common law rule: "It is, so far as the sale of chattels is concerned, pretty well eaten up by exceptions." A review of the cases shows by what gradual steps the common law of England has, in a marked degree, reverted to the civil law rule. So far as the sale of real estate, however, is concerned, the change has been comparatively slight.

By the civil law, warranty of title was implied on the part of a vendor on the sale of land, so that, in case of eviction, an action would lay for damages against him at the suit of the vendee. By the common law of England, to use the quaint language of Coke, "If a man buys lands whereunto another hath title, which the buyer knoweth not, yet ignorance shall not excuse him."

When land is leased, there is no implied covenant by the lessor that it is reasonably fit for cultivation or occupation, nor that there is not anything in its state or condition detrimental to health. So, too, when an unfurnished house is let, there is no implied undertaking that it is in a habitable condition. The landlord is also under no implied obligation to do any repairs upon the house, even if it should become uninhabitable during the term for the want of them. If a house is in an unsafe condition, there is no implied duty cast upon the owner to inform the proposed